

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4

5 IN RE: HIGH-TECH EMPLOYEE)
6 ANTITRUST LITIGATION)
7) No. 11-CV-2509-LHK
8 THIS DOCUMENT RELATES TO:)
9 ALL ACTIONS.)
10 _____)
11

12 HIGHLY CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY
13

14 VIDEO DEPOSITION OF MICHAEL McNEAL
15

16 FEBRUARY 21 ,2013
17

18 Reported by: Mary Ann Scanlan-Stone, CSR No. 8875,
19 RPR, CCRR, CLR
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11:54:57 1 BY MS. SHAVER:

11:54:58 2 Q. How about in 2010?

11:55:00 3 MR. KIERNAN: Objection. Foundation.

11:55:01 4 THE WITNESS: I don't recall if it was the

11:55:05 5 same process. The time periods were the same.

11:55:13 6 BY MS. SHAVER:

11:55:24 7 Q. Are bonuses or raises ever given outside of

11:55:27 8 that window of time after the fiscal year closes?

11:55:32 9 MR. KIERNAN: Objection. Compound.

11:55:33 10 BY MS. SHAVER:

11:55:33 11 Q. Midyear?

11:55:35 12 MR. KIERNAN: Objection. Compound. Vague.

11:55:36 13 Foundation.

11:55:39 14 THE WITNESS: Managers have the ability to

11:55:40 15 give what they call spotlight bonuses based on someone's

11:55:44 16 performance, and they can do that any time of the year.

11:55:50 17 MS. SHAVER: Okay.

11:55:50 18 Q. Are managers given a total yearly budget for

11:55:53 19 spotlight bonuses?

11:55:55 20 MR. KIERNAN: Objection. Foundation. Vague

11:55:56 21 as to which managers.

11:56:03 22 THE WITNESS: I don't recall that there's a

11:56:04 23 specific bonus -- I mean a specific budget for

11:56:08 24 spotlights.

11:56:09 25 MS. SHAVER: Okay.

11:56:10 1 Q. Do you know who would know?

11:56:12 2 A. Currently?

11:56:13 3 Q. (Nods head.)

11:56:16 4 A. In 2013, Mason Stubblefield.

11:56:29 5 Q. Is there a compensation group at -- at Intuit?

11:56:32 6 A. Yes.

11:56:33 7 Q. What's it called?

11:56:36 8 A. Rewards.

11:56:37 9 Q. Rewards.

11:57:05 10 For your direct reports, do you make the final
11:57:07 11 determination of how much they're paid?

11:57:10 12 A. Yes.

11:57:12 13 Q. Are you given any guidelines as to how much
11:57:15 14 they should be paid?

11:57:17 15 A. Yes.

11:57:17 16 Q. Who gives you those guidelines?

11:57:20 17 A. The rewards team.

11:57:24 18 Q. Is it your understanding that the rewards team
11:57:27 19 gives guidelines to managers throughout Intuit on
11:57:30 20 compensation?

11:57:31 21 MR. KIERNAN: Objection. Foundation.

11:57:37 22 THE WITNESS: Yes.

11:57:37 23 BY MS. SHAVER:

11:57:49 24 Q. Is it your understanding that each employee's
11:57:52 25 manager or supervisor has the authority to make the

11:57:57 1 final determination on what their total compensation
11:58:01 2 will be?

11:58:01 3 MR. KIERNAN: Objection. Argumentative.
11:58:04 4 Foundation.

11:58:04 5 THE WITNESS: It's my expectation. I'm not
11:58:10 6 special, so I believe that would be the practice.

11:58:18 7 I would like to clarify that it -- it's a pay
11:58:21 8 for performance culture, so it's a recommendation that
11:58:24 9 the rewards team makes --

11:58:27 10 Q. The guidelines?

11:58:28 11 A. -- the guidelines --

11:58:29 12 Q. Are recommendations?

11:58:30 13 A. -- are recommendations.

11:58:31 14 Q. Are you given a total budget for your team's
11:58:34 15 yearly total compensation?

11:58:37 16 A. No. The -- the human resources organization,
11:58:45 17 in general, has a total budget.

11:58:47 18 Q. Is that allocated to Sherry -- Sherry
11:58:51 19 Whiteley?

11:58:52 20 A. Yes.

11:58:52 21 Q. Does she tell you what -- strike that.

11:58:57 22 Does she give you a budget for your team?

11:58:59 23 A. No.

11:59:06 24 Q. Has Sherry Whiteley ever come back to you and
11:59:09 25 said the compensation that you're recommending for your

12:19:39 1 happy in their job and performing well in their job?

12:19:42 2 Absolutely, but I focus on them being engaged, growing,

12:19:46 3 and it's not a compensation conversation.

12:19:49 4 BY MS. SHAVER:

12:19:53 5 Q. Uh-hum.

12:19:53 6 Have you ever been instructed to take the risk

12:20:01 7 of losing your employees into consideration when you

12:20:02 8 determine their compensation?

12:20:06 9 MR. KIERNAN: Objection. Vague.

12:20:07 10 THE WITNESS: No.

12:20:14 11 Q. Have you ever had one of your employees get an

12:20:18 12 offer from another company?

12:20:19 13 A. Yes.

12:20:19 14 Q. Have you ever made a counteroffer to that

12:20:22 15 employee?

12:20:23 16 A. In what time period?

12:20:25 17 Q. Ever --

12:20:26 18 A. Ever?

12:20:26 19 Q. -- in your tenure at Intuit?

12:20:30 20 A. Oh, at Intuit, no.

12:20:35 21 Q. While you've worked at Intuit, are you aware

12:20:37 22 of any employees receiving counteroffers from the

12:20:40 23 company?

12:20:41 24 A. I'm not aware of any.

12:20:48 25 Q. Are you aware of a protocol for that situation

12:20:50 1 as to who would need to approve a counteroffer?

12:20:59 2 A. I don't recall, no.

12:21:00 3 Q. Do you know who would know?

12:21:01 4 A. Sherry Whiteley.

12:21:30 5 Q. Who is Sherry Whiteley?

12:21:32 6 A. The senior vice president of human resources.

12:22:13 7 MS. SHAVER: Can I have 21, please?

12:22:17 8 MS. CISNEROS: (Complies.)

12:22:32 9 MS. SHAVER: This will be Plaintiffs' Exhibit

12:22:33 10 912.

12:22:34 11 (Exhibit 912 marked for identification.)

12:22:39 12 MS. SHAVER: Q. INTUIT_040817.

12:23:15 13 A. (Reviews document.)

12:23:16 14 Q. Do you recognize this document?

12:23:17 15 A. Yeah. I was copied on an email. Yes.

12:23:24 16 Q. So the first email in this chain is sent from

12:23:37 17 Jim Grenier on May 12, 2008, and you're copied on it; is

12:23:42 18 that right?

12:23:42 19 A. Yes.

12:23:43 20 Q. And I think you testified to this earlier, so

12:23:44 21 I apologize for asking you to repeat yourself, but can

12:23:47 22 you say who Jim Grenier is?

12:23:49 23 A. Jim Grenier was the vice president of rewards.

12:23:54 24 Q. And he writes, "Hello, Everyone. This is a

12:23:56 25 summary of our approach and the guidelines for this

12:23:58 1 year's compensation decisions."

12:24:05 2 Do you recall receiving these guidelines for
12:24:06 3 this year's compensation decisions?

12:24:09 4 MR. KIERNAN: Objection as to time.

12:24:11 5 You mean --

12:24:12 6 MS. SHAVER: On May 12, 2008.

12:24:14 7 THE WITNESS: I don't recall, but it was sent
12:24:15 8 to me.

12:24:19 9 BY MS. SHAVER:

12:24:19 10 Q. And if you look above that, there's a response
12:24:24 11 from Brad Smith, May 13, 2008. He writes, Jim, thank
12:24:29 12 you for providing such thoughtful and informative
12:24:33 13 guidance in this communication.

12:24:36 14 Who's Brad Smith?

12:24:39 15 A. The CEO of Intuit.

12:24:51 16 Q. Will you turn to the second page, please.

12:24:57 17 A. Starting with level of performance?

12:25:00 18 Q. Yes.

12:25:01 19 A. Okay.

12:25:01 20 Q. Underneath that, number two, population
12:25:05 21 distributions, it states, besides performance ratings
12:25:10 22 for fiscal year -- I assume FY08 refers to fiscal year
12:25:15 23 2008 -- we will again ask leaders for forward-looking
12:25:18 24 retention ratings, open parentheses, while the
12:25:21 25 performance rating is used for cash compensation

12:25:24 1 decisions, the combination of these two ratings is used
12:25:28 2 for the allocation of equity, end parentheses.

12:25:32 3 What are forward-looking retention ratings?

12:25:36 4 MR. KIERNAN: Foundation.

12:25:42 5 THE WITNESS: The -- Intuit tries to look at
12:25:45 6 the -- what we would call the runway of someone's
12:25:49 7 ability to learn and do multiple different types of
12:25:52 8 positions. So somebody could be doing -- currently
12:25:58 9 could be doing a job, but the expectation is, with
12:26:01 10 continued growth and learning, they could do other jobs.

12:26:05 11 And so the rating would be to say this person
12:26:10 12 either has a lot of runway or not as much as other
12:26:13 13 people.

12:26:18 14 BY MS. SHAVER:

12:26:18 15 Q. So was it your understanding that the
12:26:20 16 performance rating is used for cash compensation
12:26:23 17 decisions; the combination of the performance rating and
12:26:28 18 the forward-looking retention rating is used for the
12:26:31 19 allocation of equity?

12:26:33 20 MR. KIERNAN: Objection. Argumentative.
12:26:34 21 Foundation.

12:26:35 22 THE WITNESS: My understanding of this was Jim
12:26:40 23 was trying to get people to understand what we called a
12:26:43 24 total compensation package instead of bits and pieces,
12:26:47 25 so it tried to understand what someone's entire

12:37:27 1 A. Was it so -- I believe, I'm sorry.

12:37:30 2 I believe your question was, were these used
12:37:32 3 in the rating?

12:37:33 4 Q. Yes.

12:37:34 5 A. And I don't -- I don't know that they were
12:37:36 6 specifically used in the rating.

12:37:38 7 Q. Okay.

12:37:38 8 A. It was a recommendation in draft at the time.

12:37:41 9 Q. Do you know who's the author of this
12:37:42 10 PowerPoint?

12:37:43 11 A. I do not.

12:37:45 12 Q. Was it likely Courtney Abernathy?

12:37:48 13 A. She could have aggregated all the pieces of
12:37:51 14 it, yes.

12:37:56 15 Q. Uh-huh.

12:37:57 16 And do you recall whether a final version of
12:38:00 17 this document exists?

12:38:05 18 A. There would have been a final version, but I
12:38:07 19 don't recall.

12:38:11 20 Q. Where would I find that final version, where
12:38:13 21 would it be stored?

12:38:15 22 MR. KIERNAN: Objection. Foundation.

12:38:16 23 THE WITNESS: I don't know that it would have
12:38:17 24 been stored. Each -- each year, actually, someone
12:38:20 25 different goes -- manages the process, so probably

12:38:25 1 someone different.

12:38:26 2 BY MS. SHAVER:

12:38:29 3 Q. In 2010, who managed the process?

12:38:34 4 MR. KIERNAN: Foundation.

12:38:41 5 THE WITNESS: I don't recall specifically who
12:38:42 6 it was.

12:38:43 7 BY MS. SHAVER:

12:38:44 8 Q. There -- similar to Exhibit 912, the
12:38:50 9 compensation guidelines that we looked at, does Intuit
12:38:57 10 circulate to its managers each year compensation
12:39:01 11 guidelines?

12:39:02 12 A. Yes.

12:39:07 13 Q. And do those guidelines include the factors to
12:39:11 14 be considered under performance rating and retention
12:39:15 15 rating?

12:39:21 16 A. Definitions of -- you know, the variables that
12:39:29 17 we usually use to make the decision are usually in
12:39:32 18 there, yes.

12:39:33 19 Q. Uh-hum.

12:39:33 20 And do you have any reason to think that this
12:39:49 21 box, what's the marketplace for that specific skill
12:39:52 22 talent, in Exhibit 913, page 9 of the PowerPoint, was
12:39:56 23 not in the final draft?

12:39:58 24 A. I don't recall in 2010 if it was in the final
12:40:05 25 draft.

12:40:11 1 Q. If I wanted to know whether a final draft
12:40:13 2 exists of this document for 2010, who would I ask?

12:40:20 3 MR. KIERNAN: Foundation.

12:40:20 4 THE WITNESS: I don't know if -- like I said,
12:40:21 5 it was done differently and if anyone saved it.

12:40:25 6 BY MS. SHAVER:

12:40:26 7 Q. Which group at Intuit had responsibility for
12:40:29 8 this process?

12:40:31 9 A. Two groups, the talent development
12:40:35 10 organization and the rewards organization, collaborated.

12:40:41 11 Q. Okay.

12:40:42 12 And in 2010, who was the head of the rewards
12:40:45 13 organization?

12:40:55 14 A. I believe it was Jim Grenier.

12:40:58 15 Q. And in 2010, who was the head of the talent
12:41:01 16 development organization?

12:41:11 17 A. That, I believe, was Brooks Fisher.

12:42:08 18 MS. SHAVER: Can I have 20, please?

12:42:11 19 MS. CISNEROS: (Complies.)

12:42:30 20 MS. SHAVER: I probably have another 15 to 20
12:42:32 21 minutes in this line of questioning. It's okay if you
12:42:36 22 want to stop for lunch now.

12:42:38 23 MR. KIERNAN: How are you feeling?

12:42:40 24 THE WITNESS: I'd like a new back if I can
12:42:42 25 have one but, other than that, I'm doing okay.

13:33:36 1 Q. When did he leave the company?

13:33:41 2 A. I don't recall the specific time.

13:33:42 3 Q. Do you recall approximately -- what year?

13:33:46 4 A. Gosh, I want to say either 2009 or 2010.

13:33:54 5 Q. Is Mason Stubblefield the replacement for Jim

13:33:58 6 Grenier?

13:33:59 7 A. The role is a little different, but the

13:34:04 8 portion that Jim Grenier had around rewards is what

13:34:08 9 Mason has now in regard to rewards. Jim also had

13:34:11 10 workplace, which has moved out of workplace.

13:34:13 11 Q. What's workplace?

13:34:15 12 A. Workplace is your buildings, your facilities,

13:34:18 13 your --

13:34:19 14 Q. Thank you. I understand.

13:34:20 15 Do you know where Jim Grenier works now?

13:34:23 16 A. I do not.

13:34:27 17 Q. Do you know if he's retired?

13:34:34 18 A. I do not. I'm hopeful.

13:34:44 19 Q. Do you recognize this document?

13:34:48 20 A. I do not.

13:35:01 21 Q. The second page says, "Total Rewards, Key

13:35:05 22 Levers to Attract and Retain the Talent & Skills to

13:35:09 23 Deliver for our Customers."

13:35:15 24 And you'll see on the next page that this is

13:35:17 25 dated January 21, 2006.

13:35:23 1 A. So you're on slide three?

13:35:24 2 Q. Slide three, yeah, you'll see at the bottom
13:35:26 3 there.

13:35:26 4 A. I thought you said two. I'm sorry.

13:35:28 5 Q. I did read the title page off page 2 and then
13:35:31 6 I said that you'll find the date at the bottom of
13:35:33 7 page 3.

13:35:34 8 A. Gotcha.

13:35:37 9 Q. Okay.

13:35:44 10 So January 21, 2006, that was when you held
13:35:48 11 the role of director of talent acquisition; is that
13:35:52 12 right?

13:35:52 13 A. Correct.

13:35:52 14 Q. Okay.

13:35:59 15 So do you -- if -- this is something you would
13:36:04 16 expect Jim Grenier to have shared with your talent
13:36:07 17 acquisition organization?

13:36:25 18 A. I would expect it was shared with human
13:36:27 19 resources.

13:36:27 20 Q. And that would include?

13:36:28 21 A. That would include the talent acquisition
13:36:31 22 organization.

13:36:31 23 Q. Will you turn to page 15, please?

13:36:38 24 A. (Complies.)

13:36:48 25 Q. The top of the slide reads, Compensation

13:36:50 1 Decision Process, fiscal year 2005.

13:36:54 2 A. Uh-huh.

13:36:55 3 Q. Utilizes the performance management operating
13:36:59 4 mechanism and HPOR recommendations as inputs to, quote,
13:37:03 5 reward the right behaviors, end quote, and underneath
13:37:05 6 that is an upside down pyramid and there are three
13:37:11 7 compartments within the pyramid.

13:37:13 8 One is performance/results, the second is
13:37:17 9 supply and demand for skills/competencies, and the third
13:37:21 10 is affordability budget.

13:37:24 11 Do you see that?

13:37:25 12 A. Yes, I do.

13:37:26 13 Q. Was it your understanding in 2005 that these
13:37:28 14 three compartments were the determinants of an
13:37:32 15 employee's compensation?

13:37:35 16 A. Well, that's not my understanding. I think
13:37:42 17 these were inputs but not determinants.

13:37:49 18 Q. So these were factors to be considered,
13:37:51 19 whether or not they were determinative?

13:37:56 20 A. Yes.

13:37:56 21 Q. Thank you.

13:38:15 22 You see next to the second category or the
13:38:18 23 middle part of the pyramid, supply and demand for
13:38:21 24 skill/competencies, there's an arrow outside of the
13:38:25 25 pyramid pointing toward that section that reads "Market

13:38:28 1 Pressures."

13:38:28 2 Do you see that?

13:38:29 3 A. I do.

13:38:30 4 Q. Does that suggest to you that if there is a
13:38:32 5 high demand for a set of skills or competencies in the
13:38:35 6 market, Intuit may need to pay employees with those
13:38:38 7 skills or competencies a little more?

13:38:41 8 MR. KIERNAN: Objection. Form.

13:38:43 9 THE WITNESS: It -- I -- I read that as the
13:38:46 10 business market pressures, speed in which we need to get
13:38:52 11 into a business, you know, the growth of which the
13:38:54 12 difficulty would be to trade people to a certain
13:38:59 13 competency. I read it that way.

13:39:01 14 BY MS. SHAVER:

13:39:01 15 Q. But the slide is entitled, Compensation
13:39:03 16 Decision Process, right?

13:39:04 17 A. Right. But if our -- again, our business
13:39:07 18 cycle is one that was -- had so much pressure in the
13:39:10 19 first two quarters that that created a lot of market
13:39:13 20 pressure for us to have the right people at a certain
13:39:16 21 time and in the right place.

13:39:20 22 So that -- that was my understanding of that
13:39:22 23 pressure, not that that would suggest that we needed to
13:39:25 24 pay people more.

13:39:26 25 Q. What does that business cycle -- the market

13:39:35 1 pressure for Intuit to have right people in a certain
13:39:38 2 time have to do with compensation decision process?

13:39:45 3 A. I don't know that it does. I -- I just read
13:39:48 4 that market pressure arrow as -- as the pressure that we
13:39:52 5 had, given the cycles of our market.

13:40:02 6 MS. SHAVER: Can I have Tab 24, please?

13:40:08 7 MS. CISNEROS: (Complies.)

13:40:15 8 MS. SHAVER: Please mark this Plaintiffs'
13:40:16 9 Exhibit 915.

13:40:25 10 (Exhibit 915 marked for identification.)

13:40:26 11 MS. SHAVER: This is INTUIT_039867.

13:40:52 12 Q. Do you recognize this document?

13:40:53 13 A. Yes.

13:41:00 14 Q. Who is Phil Warden?

13:41:03 15 A. Phil Warden works inside of the employee or
13:41:07 16 workforce data team.

13:41:13 17 Q. What is the workforce data team responsible
13:41:15 18 for?

13:41:16 19 A. Gathering data in regards to employees.

13:41:23 20 Q. And he sent an email to you, among other
13:41:28 21 people, on July 14, 2011?

13:41:30 22 A. Correct.

13:41:31 23 Q. Is that right.

13:41:32 24 And you responded to him the same day, "Always
13:41:34 25 interesting. Thank you."?

13:41:44 1 A. Oh, yes.

13:41:45 2 Q. Okay.

13:41:51 3 You see -- if you look at the third bullet
13:41:53 4 point in Mr. Warden's email, it's entitled or in bold,
13:41:59 5 High-Potential Employees. Do you see that?

13:42:01 6 A. Uh-huh.

13:42:02 7 Q. "When a high potential employee leaves, the
13:42:05 8 organization loses up to three and a half times the high
13:42:08 9 potential employee's annual salary in investment.
13:42:13 10 Improved high potential employee development increases
13:42:17 11 all employees' organizational commitment."

13:42:24 12 Do you see that?

13:42:27 13 A. I do.

13:42:35 14 Q. Do you have any reason -- strike that.

13:42:54 15 Did you receive these kind of reports from
13:42:56 16 Phil Warden on a regular basis?

13:42:58 17 A. No.

13:42:59 18 Q. Do you know what the -- did you receive them
13:43:02 19 on a quarterly basis?

13:43:04 20 MR. KIERNAN: Wait.

13:43:04 21 Objection.

13:43:05 22 You mean this specific quarterly news and
13:43:08 23 trend in CCL?

13:43:09 24 MS. SHAVER: Yes.

13:43:10 25 MR. KIERNAN: Or CLC, pardon me.

15:39:20 1 I, Mary Ann Scanlan-Stone, Certified Shorthand
15:39:20 2 Reporter licensed in the State of California, License
15:39:20 3 No. 8875, hereby certify that the deponent was by me
15:39:20 4 first duly sworn and the foregoing testimony was
15:39:20 5 reported by me and was thereafter transcribed with
15:39:20 6 computer-aided transcription; that the foregoing is a
15:39:20 7 full, complete, and true record of said proceedings.

15:39:20 8 I further certify that I am not of counsel or
15:39:20 9 attorney for either of any of the parties in the
15:39:20 10 foregoing proceeding and caption named or in any way
15:39:20 11 interested in the outcome of the cause in said caption.

15:39:20 12 The dismantling, unsealing, or unbinding of
15:39:20 13 the original transcript will render the reporter's
15:39:20 14 certificates null and void.

15:39:20 15 In witness whereof, I have hereunto set my
15:39:20 16 hand this day: March 2, 2013.

15:39:20 17 ___X___ Reading and Signing was requested.

15:39:22 18 _____ Reading and Signing was waived.

15:39:22 19 _____ Reading and signing was not requested.

15:39:22 20

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15:39:22 22

15:39:22 23

24

25

MARY ANN SCANLAN-STONE

CSR 8875, RPR, CCRR, CLR